

Decision No. 36915

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Commission investigation into the operations, etc., of WALTON N. MOORE CORPORATION in the rendering of heat service in San Francisco.

ORIGINAL

Case No. 4677

Reginald L. Vaughan for Respondent.

John J. O'Toole, City Attorney, Dion H. Holm, Assistant City Attorney and Paul L. Beck, Chief Valuation and Rate Engineer, by Paul L. Beck for City and County of San Francisco.

McCutchen, Thomas, Matthew, Griffiths & Greene, by Scott Elder for Babcock Estate Company.

H. W. DuVal for Pacific Gas and Electric Company.

BY THE COMMISSION:

O P I N I O N

This is an investigation upon the Commission's own motion into the operations, practices, rates and service, as well as the public utility status, of the Walton N. Moore Corporation. Such investigation was occasioned by an initial filing of certain steam heating rates on March 16, 1943.

A public hearing was held in the Commission's court room in San Francisco before Examiner Wehe on August 23 and an adjourned hearing, at the request of Respondent, was held on December 20, 1943, at which latter date the matter was submitted for decision. (1)

From the record, it appears that Walton N. Moore Corporation, or its predecessors, have supplied steam heat service to a limited number of customers in San Francisco from 1908, or shortly prior thereto, until the present time. Steam for this purpose is now and always has been produced in a steam plant in the basement of the Alaska Commercial Building, at 310 Sansome Street, which is owned by the Walton N. Moore Company, (2) and the service area has been confined within a radius of a few blocks from this building. The customers, five in number, now being served are all located in the two blocks bounded by Sansome, Halleck, Front and California Streets.

(1) The adjourned hearing was requested by Respondent in order to give the Office of Price Administration the necessary 30 days' notice of intention to increase rates as provided in Section 1 of the Inflation Control Act of 1942.

(2) Walton N. Moore, an individual, owns all the stock in the Walton N. Moore Corporation, Respondent herein, and also owns all the stock in Walton N. Moore Company, the corporation which owns the Alaska Commercial Building.

The plant originally consisted of three 120 hp Sterling high pressure boilers and appropriate fire boxes, installed during or prior to 1908 for the purpose of producing both steam and electric energy for use within the building and for sale outside. The use of one boiler was discontinued in 1918, at which time Respondent's predecessor, Alaska Commercial Building, ceased generating electric energy and began to purchase its requirements from Great Western Power Company of California, predecessor of Pacific Gas and Electric Company, and it now stands dismantled. In addition to the two remaining boiler installations are two motor-driven blowers, with burners and related valves and connections, pressure regulators, and various small pieces of incidental equipment.

It is recorded that the distribution system consists of approximately 250 feet of 6-inch copper main,⁽³⁾ approximately 300 feet of 2-inch copper return pipe, services and valves. With the exception of the return pipe, which was installed in 1937, the distribution system is as it was originally built during or prior to 1908.

The steam heating service is unmetered and is sold under contracts at flat monthly rates. The filing by Respondent, heretofore referred to, would increase some of these flat rates and such proposed rate changes, along with the question as to the public utility status of Respondent, occasioned the instant investigation. Respondent's customers of record are Western American Finance Building, New Zealand Building, Babcock Building, Hind Building and Alaska Commercial Building.

From testimony presented by Mr. A. B. Daly, a senior engineer with the Commission, it appears that the present revenues, as well as the increased revenues to be derived from the proposed rates, will be insufficient to meet the out-of-pocket operating expenses of providing the steam heat service, much less to provide for depreciation and a return upon the investment. In this respect it is shown that for the year 1942 operating revenues were in the amount of \$5,240, while the direct expenses were in the sum of \$7,775.93, thus showing a deficit of \$2,535.93.⁽⁴⁾

(3) A limited amount of abandoned 6-inch copper main, lying outside the present service area, is excluded from this figure.

(4) Included in \$7,775.93 expense item is labor in amount of \$3,606.61, fuel oil \$2,688.53, and boiler feed \$89.50, or a total of \$6,384.64. Effective April 1, 1943, there was an increase of 25¢ per barrel in the cost of fuel oil, thus further increasing the deficit.

The rates filed by Respondent and now under suspension would result in an annual increase in revenue of but \$980. It is obvious that the proposed rates will still provide an inadequate revenue to meet even the out-of-pocket costs of operation, but inasmuch as Respondent is not during this war period seeking full costs in rendering the service we will not pursue further this phase of the matter and will direct our attention to the apportionment of the charges as between the five steam heat customers.

Since the steam heating service is not supplied on a metered basis it becomes necessary to make a flat revenue apportionment as between the customers involved. Mr. Daly testified that in his judgment an equitable basis for such apportionment would be the present capacities of the steam heat radiators installed in the buildings. Using this basis he made an estimate as to the respective amounts that each of the five customers should pay of the total charges proposed. In order that the past monthly charges, those proposed by the Respondent, and those recommended by Mr. Daly may be viewed the following tabulation is presented:

<u>Names of Customers</u>	<u>Present Charges</u>	<u>Proposed by Respondent</u>	<u>Recommended by Mr. Daly</u>
Western American Finance Building	\$ 60.00	\$ 60.00	\$ 60.00
New Zealand Building	60.00	60.00	65.00
Babcock Building	83.33	120.00	105.00
Hind Building	83.33	125.00	120.00
Alaska Commercial Building	<u>150.00</u>	<u>150.00</u>	<u>165.00</u>
	\$436.66	\$515.00	\$515.00

At the hearing no one raised objections to the apportionment testified to by Mr. Daly.⁽⁵⁾

Inasmuch as the record fully substantiates the reasonableness of the proposed allocations of Mr. Daly, such division among the five users of the service is found to be the reasonable apportionment of the \$515.00 monthly charge for the service and the same will be made a part of the order that follows.

(5) Mr. Scott Elder, representing the Babcock Estate Company, did offer a general objection to any increases in charges at this time. However, from subsequent remarks it may be stated that he was of the opinion that his client would pay such adjusted charges as the Commission found reasonable.

It is the further view of the Commission that the Walton N. Moore Corporation shall change to metered service and file appropriate rates for that service as soon as metering equipment may reasonably be secured.

The terms "heating plant" and "heat corporation" are defined in sections 2 (bb) and 2(cc) of the Public Utilities Act. Although a "heat corporation" is a public utility (sec. 2(dd)), it is not required to obtain a certificate of public convenience and necessity before engaging in such business (sec. 50). Rates, however, must be filed with the Commission. Walton N. Moore Corporation has filed such rates, and takes the position that it has dedicated its facilities to public use for the purpose of furnishing steam heat service, under the conditions of its tariffs, within the area of approximately two city blocks which is bounded by Sansome, Halleck, Front and California Streets. Under the circumstances we find that Walton N. Moore Corporation is a public utility heat corporation within the meaning of the Public Utilities Act.

It is further found that the rates filed by Walton N. Moore Corporation on March 16, 1943 under Advice No. 1 are discriminatory and preferential to the extent that such rates differ from those set forth in Exhibit "A" to the order herein, which latter rates are found to be nondiscriminatory.

O R D E R

Public hearings having been had in the above proceeding, and based upon the record and upon the findings contained in the above opinion,

IT IS ORDERED as follows:

1. Original Sheets Nos. 1-H, 2-H and 3-H, filed by Walton N. Moore Corporation on March 16, 1943 under Advice No. 1, are hereby cancelled.

2. Walton N. Moore Corporation is hereby authorized to file the steam heat schedule of rates attached as Exhibit "A" to this order. Said rates shall be applicable on all service rendered on and after April 1, 1944.

The Secretary is directed to cause a copy of this order to be served upon Walton N. Moore Corporation. This order shall become effective on the twentieth (20th) day after the date of such service.

Dated at San Francisco, California, this 17th day of March, 1944.

Richard Roche
Justin F. Carson
Francis L. Haven
William C. Linn
Robert K. Powell
Commissioners.

EXHIBIT A

SCHEDULE NO. 1

GENERAL HEATING SERVICE

APPLICABILITY

Applicable to general building heating.

TERRITORY

The two city blocks bounded by Sansome, Halleck, Front and California Streets.

RATES

Western American Finance Bldg.	350 Californic Street	\$ 60.00 per calendar mo.
New Zealand Bldg.	324 " "	65.00 " " "
Babcock Bldg.	310 " "	105.00 " " "
Hind Bldg.	210 " "	120.00 " " "
Alaska Commercial Bldg.	310 Sansome Street	165.00 " " "

Minimum Charge: The above flat rates constitute both the monthly minimum charge and the full charge for the service supplied.

SPECIAL CONDITIONS

Service under the above rates is available only under contract on an annual basis.